

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRIENDSHIPCOLLAR LTD.,)	CASE NO.: 5:18-cv-478
)	
Plaintiff)	JUDGE JOHN R. ADAMS
)	
vs.)	
PAWZ LLC, et al.,)	
)	
Defendants)	

**DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION UNDER RULES 6(b)(1)(A) AND 16(b)(4)
FOR AN EXTENSION OF TIME IN WHICH TO RESPOND TO
DISCOVERY REQUESTS AND TO AMEND PLEADINGS**

On June 21, 2018, plaintiff served original counsel of record for defendant, Campisi, with

- 27 interrogatories (2 more than the number allowed under the Federal Rules of Civil Procedure),
- 35 requests for documents, and
- 15 requests for admissions.

Additionally, on that same day, plaintiff served original counsel of record for defendant, PAWZ LLC, with

- 27 interrogatories (2 more than allowed under the Federal Rule of Civil Procedure),
- 35 requests for documents, and
- 16 requests for admissions.

By operation of the Federal Rules of Civil Procedure, responses to all requests are due on July 21, 2018 (which is a Saturday, making the responses due July 23, 2018), three (3) days from the filing of this motion.

Additionally, an Answer to the First Amended Complaint is due on August 2, 2018.

The undersigned counsel first met with defendant Campisi on July 9, 2018. Following a conflict check, the undersigned were retained on July 11, 2018. To properly represent defendants in their responses to these 155+ discovery requests, the undersigned counsel require additional time.

The Case Management Plan provides for discovery to be completed by September 10, 2018. On July 16, 2018, the undersigned contacted plaintiff's counsel to request an additional thirty (30) days in which to respond to the discovery requests. Plaintiff's counsel offered fourteen (14) days, stating that discovery needs to be completed by September 10, 2018. While appreciated, plaintiff's offer does not fully consider that:

- The undersigned counsel must review the matter in order to properly assist defendants in responding to the 155 plus discovery requests; the case involves a foreign plaintiff that is relying on foreign design registrations (see, Doc. 17-5 and 17-6, PageID 175-199);
- The undersigned counsel must additionally answer the First Amended Complaint by August 2, 2018, including researching and asserting counterclaims that may be available to defendants; and
- Further, plaintiff's counsel conditioned the 14-day offer upon defendants providing dates for their deposition during the month of August, a request with which undersigned counsel cannot immediately comply.

Amending the Case Management Plan for the same reasons will not delay the orderly progression of the case. Should discovery be extended by thirty (30) days to October 10, 2018, the only other date required to be changed is the date for identifying expert witnesses and providing a written report, which would move to November 10, 2018. This would still leave the

parties with twenty-three (23) days in which to take discovery depositions of the opponent's expert witness.

Reopening the date for Amendment of Pleadings for forty-five (45) days will allow undersigned counsel the ability to consider counterclaims of which they may become aware after some initial discovery is served to plaintiff, which has yet to be done.

Plaintiff cannot argue that it will be prejudiced by these short requested extensions. Plaintiff did not object to the withdrawal of defendant's original counsel as prejudicial to it, and reasonably should have anticipated at least a few short delays with the appearance of new counsel.

Most importantly, allowing the extensions beyond the telephonic conference scheduled with the Court, will allow a discussion of the possibility of mediation. From their limited review of the case to date, undersigned counsel is nonetheless able to represent that very few sales of the accused products occurred prior to the filing of this case. Mediation should, therefore, prove beneficial in assisting the parties to resolve the dispute without prolonged, and necessarily expensive, litigation.

WHEREFORE, defendants respectfully request that the Court find that due to the withdraw of original counsel of record for defendants without objection, and the recent and timely appearance of undersigned counsel after retention, "good cause" exists to extend the time in which defendants may respond to plaintiff's discovery requests and to modify the Case Management Plan as follows:

- Defendants may have until **August 27, 2018** (August 25, 2018, being a Saturday) to respond and/or object to the 157 individual discovery requests served by plaintiff on defendants electronically on June 21, 2018;

- The discovery deadline will now be **October 10, 2018**;
- The date for identifying expert witnesses and providing opposing counsel with a written expert report will now be **November 10, 2018**; and
- The parties will now have an additional period of forty-five (45) days to and including **September 10, 2018** (September 9, 2018, being a Sunday) to amend their pleadings.

Respectfully submitted,

s:/Ray L. Weber

Ray L. Weber (0006497)

Laura J. Gentilcore (0034702)

RENNER, KENNER, GREIVE, BOBAK,

TAYLOR & WEBER

106 South Main Street, Suite 400

Akron, OH 44308

Telephone: (330) 376-1242

Fax: (330) 376-9646

E-mail: rlweber@rennerkenner.com

E-mail: ljgentilcore@rennerkenner.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' BRIEF IN SUPPORT OF THEIR MOTION UNDER RULES 6(b)(1)(A) AND 16(b)(4) FOR AN EXTENSION OF TIME IN WHICH TO RESPOND TO DISCOVERY REQUESTS AND TO AMEND PLEADINGS** has been filed electronically on July 18, 2018, with the United States District Court for the Northern District of Ohio. Notice of the filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s:/Ray L. Weber